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09/989,248	11/20/2001	Yves Ramanzin	PHFR 010138	9634

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EXAMINER

VO, TUNG T

ART UNIT PAPER NUMBER

2613

DATE MAILED: 01/24/2006

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/989,248  
Filing Date: November 20, 2001  
Appellant(s): RAMANZIN, YVES

**MAILED**  
JAN 24 2006  
Technology Center 2600

Steve Cha, Registration No. 44,069  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 09/22/2005 appealing from the Office action mailed  
10/09/2005

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. (US 6,700,933) in view of Han et al.

As for Claim 1, Wu et al. teaches decoding a base layer containing minimum quality video data and decoding enhancement layers that have increasingly higher quality video data. Wu et al. also teaches that the enhancement layers can either be predicted from the base layer or previous enhancement layers (Column 3, lines 40-49). Although Wu et al. fails to teach an error in the base layer frame and replacing it with a din or following enhancement layer frame, Han et al. does (page 289, 1<sup>st</sup> Column, paragraph 4<sup>th</sup>; page 293, 1<sup>st</sup> Column, 2<sup>nd</sup> Paragraph). Han et al. teaches the layers (page 289 2<sup>nd</sup> Column, 3<sup>rd</sup> Paragraph) importance of error correction and protecting the lower. Han et al. finally teaches that the lower layers, which could consist of the base layer, can be replaced with a higher enhancement layer in a different his article (page 293, 1<sup>st</sup> Column, 1<sup>st</sup> and 2<sup>nd</sup> Paragraph). Since replacing the embodiment of the base layer with an enhancement layer is to correct an error, or poor quality frame, it would have been obvious to one of ordinary skill to combine the embodiments of Han et al. in order to use the enhancement layers to correct an error in the base layer.

As for Claim's 2-4, many of the limitations of these Claim's have been addressed in the above rejection. Han et al. teaches that corresponding blocks in the previous frame are used in the blocks of the stationary background. The replacement blocks are interpolated blocks in the use with more than two layers (page 293, 1<sup>st</sup> Column, 2<sup>nd</sup> Paragraph).

**(10) Response to Argument**

The appellant argued that Han makes no suggestions of “replacing poor quality based layer frame by at least one of the two frames of the enhancement layer” as is recited in the claims.

The examiner respectfully disagrees with the appellant. It is submitted that Han suggests replacing poor quality based layer frame by at least one of the two frames (page 293, 2<sup>nd</sup> Column, 2<sup>nd</sup> paragraph; Note temporal replacement is used in the based layer (case II); wherein case II describes that temporal, i.e. replacing the lost block with corresponding block in the previous frame; page 291, 1<sup>st</sup> Column, last paragraph) of the enhancement layer (page 291, 2<sup>nd</sup> Column, last paragraph to 1<sup>st</sup> Column of page 292; see also page 293, 1<sup>st</sup> Column, 1<sup>st</sup> paragraph). In view of the discussion, the claimed features are unpatentable over Han.

The appellant further argued that no motivation exists for the proposed modification, pages 7-8 of the appeal brief.

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Wu and Han both teach decoding video bitstream using enhancement and based layers; wherein the based layer is replaced by the one or more of the enhancement layer frames for best quality of the image as suggested by Han.

The appellant further argued that the proposed modification of Chen fails to arrive at the present invention, pages 8-9 of the appeal brief.

Art Unit: 2613

It is noted that the examiner does not use Chen to make the combination in the rejection. Therefore, the arguments are not persuasive.

The appellant further argued that the proposed modification can not change principle of operation of a reference, pages 9 and 10 of the appeal brief.

The examiner respectfully disagrees with the applicant. It is that Wu et al. suggest in Figure 20 and Column 21, line 41-56 that the based layer is replaced by an enhancement layer; and the replacement of based layer is taught by Hang on page 293, Column 1, paragraph 2, for better quality of the image when displayed. Therefore, the combination of Wu and Han make obvious the claimed features.

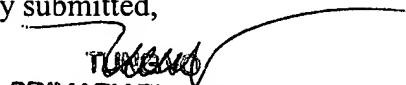
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Tung Vo

  
PRIMARY EXAMINER

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